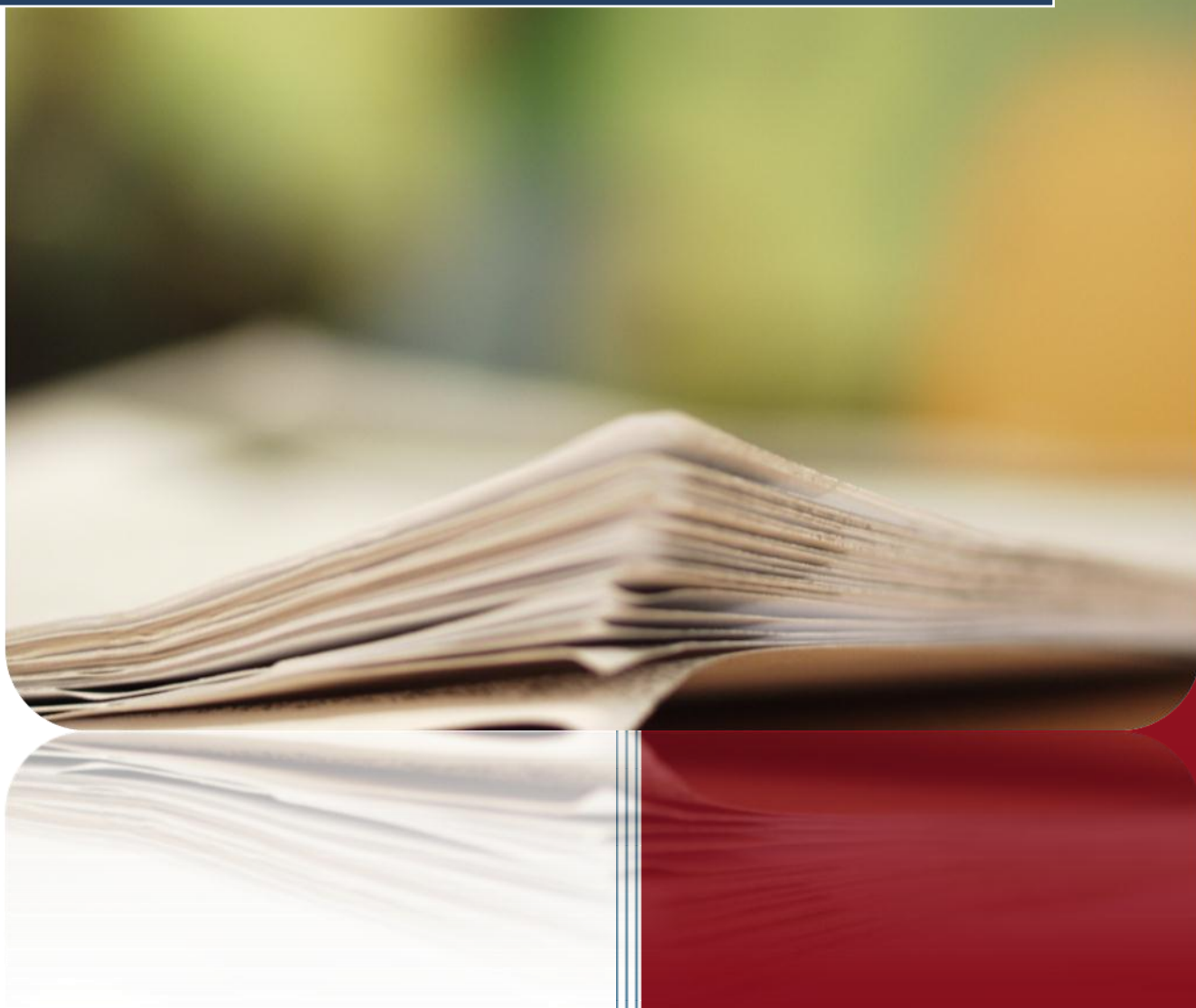




Council for
Court Excellence
Improving Justice for the Community

2011

How the District of Columbia Gets Its Judges



December 2011

Council for Court Excellence

Formed in Washington, DC in January 1982, the Council for Court Excellence is a nonprofit, nonpartisan civic organization. The Council works to improve the administration of justice in the local and federal courts and related agencies in the Washington metropolitan area. The Council accomplishes this goal by:

- ✦ Identifying and promoting justice system reforms,
- ✦ Improving public access to justice, and
- ✦ Increasing public understanding and support of our justice system.

The Council is governed by a volunteer Board of Directors composed of members of the legal, business, civic, and judicial communities. The Council is unique in bringing together all of those communities in common purpose to address justice system reform and access to justice needs.

The Board accomplishes the work of the Council through direct participation in Council committees. The Council employs a small staff to assist the Board in meeting the objectives of the organization. Financial support comes from the members of the Board, businesses, law firms, individuals, foundations, and occasionally government.

The Council for Court Excellence has built a substantial record of success in the major reform initiatives it has undertaken. The Council has been the moving force behind adoption of the one day/one trial jury system in the DC Superior Court, modernization of trial jury and grand jury systems, reform of the District of Columbia probate laws and procedures, reform of the DC administrative adjudication system, improvement in handling of child neglect and abuse cases, expansion of crime victim rights, adoption of criminal record-sealing rights, proposing methods to speed resolution of criminal cases, and proposing methods to speed resolution of civil cases by the DC trial and appellate courts.

To improve the public's access to justice and increase their understanding of our justice system, the Council over the years has published and distributed over 350,000 copies of a wide variety of plain-language booklets and other materials. The Council has also provided trainings and other events to improve understanding of and participation in the jury system since the early 1990s.

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How the District of Columbia Gets its Judges

Since its founding in 1982, the Council for Court Excellence has been committed to informing the community about the administration of justice in the District of Columbia. One method the Council uses is publication of plain-language guides on a variety of justice system topics and procedures. The Council for Court Excellence believes that understanding more about the third branch of the District of Columbia government – the District of Columbia Courts – and knowing how the judges of those courts are selected could enhance the community’s faith and confidence in the judiciary.

Thus, we are pleased to present this 2011 publication, *How the District of Columbia Gets its Judges*. This update of our December 2005 first edition reflects all current information about the District of Columbia’s judicial appointment process, as of August 2011.

This publication is in two parts. Part One describes the District of Columbia’s judicial appointment and reappointment process for both trial judges on the Superior Court of the District of Columbia (Superior Court) and appellate judges on the District of Columbia Court of Appeals (Court of Appeals). Part Two narrows that focus to cover only the Superior Court. In order to illuminate the various pathways to becoming a trial judge in the District of Columbia, Part Two provides detail, based on Council for Court Excellence research, about the professional backgrounds of the 150 persons who have been recommended by the District of Columbia Judicial Nomination Commission for nomination to the Superior Court between 1994 and August 2011.

Part One: The Judicial Appointment and Reappointment Process

A. In General

1) Creation of the District of Columbia Court System

The District of Columbia’s unified “state” court system was established in 1970 by the District of Columbia Court Reform and Criminal Procedure Act. This Act was passed by the United States Congress, which has sole authority to legislate the portion of the D.C. Code that establishes the governmental structure of the District of Columbia. The Superior Court of the District of Columbia is the District’s trial court, and appeals of Superior Court judgments are heard by the District of Columbia Court of Appeals.

Before 1970, the District of Columbia had a Court of General Sessions with jurisdiction over minor civil and criminal matters, and a separate Juvenile Court with jurisdiction over juvenile delinquency, child neglect, paternity, and child non-support matters. The 1970 Act established the D.C. Court of Appeals and combined the D.C. Court of General Sessions and the D.C. Juvenile Court into the newly formed Superior Court. The Act also transferred to the Superior Court all major local and criminal and civil jurisdictions which had previously been handled by the federal trial court, the United States District Court for the District of Columbia.

2) Qualifications of District of Columbia Judges

To become a D.C. judge, applicants must meet all of the following minimum statutory qualification standards, prescribed by the District of Columbia Self-Government and Governmental Reorganization Act of 1973, known as the D.C. Home Rule Act:

- ✦ they must be a United States citizen;
- ✦ they must be a bona fide resident of the District of Columbia and have maintained an actual place of abode in the District of Columbia for at least 90 days immediately prior to the nomination (and must continue to reside in D.C. for as long as they serve as a judge);
- ✦ they must be an active member of the unified District of Columbia Bar;
- ✦ for the five years immediately preceding their appointment, they must have actively practiced law in the District of Columbia, or been on the faculty of a law school in the District of Columbia, or been employed as a lawyer by either the United States government or the District of Columbia government;
- ✦ they must be recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and
- ✦ they must not have served, within a period of two years prior to the nomination, as a member of the District of Columbia Judicial Disabilities and Tenure Commission or the Judicial Nomination Commission.

3) The Judicial Selection Process

Judges of the District of Columbia Superior Court and Court of Appeals are appointed and reappointed through a merit-selection process, not by election. All applicants for a vacancy on either the Superior Court or the Court of Appeals are screened by the District of Columbia Judicial Nomination Commission. For any vacancy on either court, the Commission selects three applicants to recommend to the President of the United States. The President then chooses one of the three persons for nomination, the United States Senate confirms the nominee, and the President appoints the person as a judge. For more information on the Judicial Nomination Commission, see page 7.

4) Judicial Term of Service

Appointed judges to either court have a fifteen-year term, and they may apply and be reappointed to successive terms. A different D.C. commission, the D.C. Commission on Judicial Disabilities and Tenure, evaluates all applicants for reappointment. Judges of either court are



eligible for retirement at any age after ten years of judicial service, but they must meet a combination of age and service conditions to draw retirement benefits. Retirement from active service is mandatory at age 74.

Retired judges may apply to the Commission on Judicial Disabilities and Tenure not later than one year after their retirement for appointment as senior judges. That Commission evaluates all retiring judges who request recommendations for initial appointment and reappointment to senior status. Senior judges are appointed to a four-year term, unless the judge has reached age 74, in which case the appointment is for a two-year term. For more information on the Judicial Disabilities and Tenure Commission, see page 9.

5) The Number of Judges

Congress sets the number of judges on each of the District of Columbia courts. Including the chief judges, the statutory maximum is 62 judges for the Superior Court, and 9 judges for the Court of Appeals. However, despite those statutory caps on the number of judges, each court also has a corps of senior judges, who are available to serve on a part-time basis. There are currently 31 senior judges in the Superior Court, and 9 in the Court of Appeals. Finally, the Superior Court also has a corps of 24 magistrate judges with more limited judicial authority than that of associate or senior judges. Magistrate judges are appointed by the Chief Judge of the Superior Court, with the approval of a majority of the associate judges of the Superior Court, for a renewable four-year term.

Superior Court Judges are currently paid \$174,000 per year . . . Magistrate judges are currently paid \$160,080 per year.

6) Judicial Salaries

The salaries for District of Columbia judges are identical to those for federal judges. Superior Court judges are currently paid \$174,000 per year. Court of Appeals judges are currently paid \$184,500 per year. The chief judge of each court is paid \$500 per year more than the other judges of their respective courts. Superior Court magistrate judges are currently paid \$160,080 per year.

B. The Judicial Appointment Process

There are nine steps to the judicial appointment process for either the D.C. Superior Court or the D.C. Court of Appeals.

- 1) **Notice of Retirement.** Whenever a judge sends a written notice of his or her retirement, the D.C. Judicial Nomination Commission begins the process to select a replacement. Any judge whose 15-year term is expiring and who wishes to be reappointed to a new term must notify the D.C. Commission on Judicial Disabilities and Tenure at least six months before the end of his or her term. If any judge does not deliver such a notification, a vacancy shall result from the expiration of that judge's term of office, triggering the judicial appointment process.

- 2) **Notice of Judicial Vacancy.** The Judicial Nomination Commission publishes a *Notice of Judicial Vacancy*. The Notice cites the name of the judge who is retiring, the date of the vacancy, an invitation to apply for the vacant judicial position, the legal qualifications for applicants, information on how to obtain the judicial questionnaire which all applicants must complete and file, the deadline for submitting the completed questionnaire and related application materials, and contact information for the Commission's Executive Director and for all Commissioners.

Passage by Congress of the District of Columbia Family Court Act of 2001 may from time to time complicate the determination of whether there is a true judicial vacancy on the Superior Court. The Family Court Act prescribes four additional qualifications for judges who serve in the Family Court of the Superior Court: the judges must have prior training or expertise in family law, they must volunteer to the Chief Judge for assignment to Family Court, they must agree to serve in the Family Court for a minimum of three or five years (depending on when they were first appointed to Superior Court), and they must agree to engage in ongoing training in family law while serving in Family Court.

Congress has authorized a total of 62 associate judge positions for the Superior Court, and the Family Court Act states that up to 15 of those judges may serve in the Family Court. To ensure that there are a sufficient number of qualified Superior Court judges to fill the associate judge positions in Family Court, the Family Court Act permits lifting the cap on the number of judicial positions in the Superior Court. This cap-lifting is permitted only to fill vacancies on the Family Court, whenever the Chief Judge, with approval of the Joint Committee on Judicial Administration, determines that he or she cannot find qualified candidates from among the Superior Court's current judges.

The presumption of the Family Court Act is that, after any cap-lifting incident to fill a Family Court vacancy, the Superior Court will revert to its statutory limit on number of judges through attrition. Thus, if the Court is above its cap, resignation or retirement of a judge does not create a vacancy. The Chief Judge has invoked the cap-lifting provision once, in mid-2002, to fill three associate judge positions on the Family Court.



- 3) Application by Judicial Questionnaire.** To gather the information it needs to evaluate candidates for judicial vacancies, the Judicial Nomination Commission has prepared an extensive questionnaire that all applicants must complete. The questionnaire is published on the Commission's website: www.jnc.dc.gov.

The questionnaire seeks detailed information about the applicant's educational, financial, civic, and legal background, including areas of expertise and experience, litigation experience, and jury and non-jury trial experience. The questionnaire also asks applicants to provide details of significant legal cases the applicant has litigated, and writing samples. All applicants must sign forms authorizing the Commission to investigate private information about their background.

Potential applicants should consider completing the questionnaire in advance of the Notice of Vacancy.

Because the questionnaire is long and crucial to the screening process, and because the application time is compressed, potential applicants should consider completing the questionnaire in advance of a Notice of Vacancy. However, the Judicial Nomination Commission accepts only current completed questionnaires and only when a vacancy notice has been published.

- 4) Commission Screening Process of Applicants.** The screening process happens quickly. The Commission must complete the screening process and forward its list of persons recommended for appointment to the President no later than 60 days after the judicial vacancy occurs.

For each applicant, the Commission does background investigations, contacting a variety of agencies and entities to obtain information about an applicant, including the Internal Revenue Service, the D.C. Office of Tax and Revenue, credit bureaus, police departments, the D.C. Bar and Bar Counsel, and others. The Commission also publishes the names of all applicants and distributes an Applicant Evaluation Form to invite comments from the bench, bar and general public regarding an applicant's fitness for a judicial position. Applicants can be evaluated with respect to eight categories: judicial temperament, professional skills and abilities, ethics, commitment to diversity, leadership and communication skills, efficiency and organizational skills, writing skills, and community service. The Commission has created a web-based Applicant Evaluation Form to facilitate the opportunity to provide comments on the applicants' qualifications. Comments can also be submitted by visiting the Commission's website



at www.jnc.dc.gov. The Commission does not require letters of recommendations, letters of support, or endorsements, but does accept and consider them.

The applicants' application materials and results from the background investigation are compiled for each Commission member and the Commission convenes a meeting. The Commission conducts applicant interviews at its discretion but typically interviews all new applicants. Also, some or all of the Commission members may be available to meet with applicants, as time permits, upon receipt of the complete application. Applicants may contact any Commission member to request an individual meeting. At the Commission meeting, the Commission discusses the candidates and votes to identify their top three picks.

- 5) **Commission Notice of Persons Recommended for the Vacancy.** No later than 60 days after the vacancy has occurred, the Commission transmits to the President of the United States the names and certain background information of the persons it recommends for any vacancy. To inform the public, the Commission also publishes a *Notice of the Names Recommended by Commission*. The notice gives summary biographical information about each of the persons recommended.
- 6) **Presidential Review of Persons Recommended.** This review also happens promptly. The White House requires each of the candidates to complete additional, different paperwork for their review. The White House also has background checks done on the candidates. Staff members of the White House Counsel's office may also interview the candidates.
- 7) **Presidential Nomination.** No later than 60 days after receiving the names of the candidates from the Judicial Nomination Commission, the President nominates one of the candidates to fill the vacancy. If for some reason the President does not make the nomination within 60 days, the D.C. Judicial Nomination Commission makes the nomination to the Senate.
- 8) **Senate Confirmation.** Nominations for District of Columbia court vacancies are referred for action to the Senate Committee on Homeland Security and Governmental Affairs, and its Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia. After approval by the Subcommittee and the full Committee, the nomination must be confirmed by the full Senate.

There is no deadline for Senate confirmation action, and confirmation times vary widely. As discussed above, confirmation cannot occur unless there is a vacancy within the cap on the total number of judges in the court.

- 9) **Swearing-in and Investiture.** Once the Senate confirms the judicial nominee and the President issues a commission formally appointing the nominee, he or she is qualified to be sworn in and begin judicial service immediately. Frequently, a public investiture

ceremony for the new judge is held at the court, though this is generally after the actual swearing-in and start of judicial service.

C. The Judicial Reappointment Process

A judge of either the Superior Court or the Court of Appeals whose 15-year term is expiring and who wishes to be reappointed to a new term must file a declaration of candidacy for reappointment with the D.C. Commission on Judicial Disabilities and Tenure at least six months before the end of his or her term. The Judicial Disabilities and Tenure Commission evaluates each candidate for reappointment, and it seeks comments from other judges, lawyers, court staff, and the public. The Commission also requires a candidate's doctor to complete a three-page Judicial Medical Form attesting to the candidate's physical and mental health. The Commission is required to submit to the President of the United States a written evaluation of the candidate no less than 60 days before the candidate's 15-year term expires. The evaluation must address the candidate's performance during the present term of office and the candidate's fitness for reappointment.

If the Commission determines the candidate is "well qualified" for reappointment, the candidate is automatically reappointed to a new 15-year term, subject to the mandatory retirement age. If the Commission determines the candidate is "qualified" for reappointment, the President may renominate the candidate, subject to Senate confirmation. However, the President may choose not to renominate a "qualified" candidate, in which case the D.C. Judicial Nomination Commission must forward three new names for the position. If the Disabilities and Tenure Commission determines the candidate is "unqualified" for reappointment, the President may not nominate the candidate. Such a judge is not eligible for reappointment or appointment as a judge of a District of Columbia Court, and the Judicial Nomination Commission must forward three new names to the President for the vacancy.

D. The District of Columbia Judicial Nomination Commission

The Judicial Nomination Commission was established by Congress in the D.C. Home Rule Act. The Commission has seven members. They must all be citizens of the United States and, for at least 90 days prior to their appointment, residents of the District of Columbia. The seven members of the Commission are appointed by five different entities:

- ✦ The President of the United States appoints one member. That member's term on the



Commission is five years.

- ✦ The Board of Governors of the D.C. Bar appoints two members. Those members must have practiced law in the District for at least the five years immediately preceding their appointment. Their terms on the Commission are six years.
- ✦ The Mayor of the District of Columbia appoints two members. At least one of the Mayor's appointees may not be a lawyer. Those members' terms are six years.
- ✦ The D.C. Council appoints one member. That member may not be a lawyer. That member's term is six years.
- ✦ The chief judge of the United States District Court for D.C. appoints one member. That member must be an active or retired federal judge serving in the District. That member's term is six years.

When the Commission was established, the various members' terms were staggered to permit both continuity and turnover within the Commission membership. Commission members serve until replacements are appointed and may be reappointed to successive terms. The current Commission members are:

- ✦ Judge Emmet Sullivan of the U.S. District Court. He was appointed to the Commission by the Chief Judge of the U.S. District Court in 2001 and was reappointed in 2005 and in 2011. His term ends in 2016.
- ✦ William Lucy, Vice President of the American Federation of State, County, and Municipal Employees union. He was appointed by the Mayor in 2004. His term ended in 2010 but he is still serving because his replacement has not been named.
- ✦ Natalie Ludaway, the managing member of the law firm Leftwich & Ludaway. She was appointed by the Mayor in 2005, and her term ended in 2010, but she is still serving because her replacement has not been named.
- ✦ Rev. Morris Shearin, Sr., of the Israel Baptist Church. He was appointed by the D.C. Council in 2008, and his term ended in 2011, but he is still serving because his replacement has not been named.
- ✦ Karl Racine, the managing partner at the law firm Venable. He was appointed by the D.C. Bar in 2007, and his term ends in 2014.
- ✦ Woody Peterson, a partner at the law firm Dickstein Shapiro. He was appointed by the President of the United States in 2010, and his term ends in 2015.
- ✦ Grace Speights, a managing partner at the law firm Morgan, Lewis & Bockius. She was appointed by the D.C. Bar in 2009, and her term ends in 2016.



The D.C. Judicial Nomination Commission has two responsibilities prescribed in the D.C. Home Rule Act. The Commission recommends to the President of the United States three qualified

persons to fill any judicial vacancy on either the Superior Court or the Court of Appeals. The Commission also selects the Chief Judges of the Superior Court and the Court of Appeals from among the active judges of each respective court.

The Commission has two staff members. From 1973 to 2010, the D.C. government funded the Commission. Since then, the federal government has provided the Commission's funding. The Executive Director is Kim M. Whatley.

The Judicial Nomination Commission office is at:
515 5th Street, NW, Suite 235
Washington, DC 20001
Phone 202-879-0478
Website: www.jnc.dc.gov

The appointment and qualification provisions for members of the Commission on Judicial Disabilities and Tenure are identical to those for the Judicial Nomination Commission.

E. The District of Columbia Commission on Judicial Disabilities and Tenure

The Commission on Judicial Disabilities and Tenure was established in its current form by the D.C. Home Rule Act. The appointment and qualification provisions for members of this Commission are identical to those for the D.C. Judicial Nomination Commission. The Commission has seven members. They must all be citizens of the United States and, for at least 90 days prior to their appointment, residents of the District of Columbia. The seven members of the Commission are appointed by five different entities:

- ✦ The President of the United States appoints one member. That member's term on the Commission is five years.
- ✦ The Board of Governors of the D.C. Bar appoints two members. Those members must have practiced law in the District for at least the five years immediately preceding their appointment. Their terms on the Commission are six years.
- ✦ The Mayor of the District of Columbia appoints two members. At least one of the Mayor's appointees may not be a lawyer. Those members' terms are six years.
- ✦ The D.C. Council appoints one member. That member may not be a lawyer. That member's term is six years.
- ✦ The chief judge of the United States District Court for D.C. appoints one member. That member must be an active or retired federal judge serving in the District. That member's term is six years.

When the Commission was established, the various members' terms were staggered to permit both continuity and turnover within the Commission membership. Commission members may be reappointed to successive terms.

The Commission members choose their chair annually. The current chair is Judge Gladys Kessler, a senior judge of the U.S. District Court for D.C. She was appointed to the Commission

by the Chief Judge of the U.S. District Court in 2001 and was reappointed in 2005 and 2010. Her term ends in 2016. Other current members of the Commission are:

- ✦ Gary Dennis, M.D., of Howard University School of Medicine. He was appointed by the D.C. Council in 2005, and his term ends in 2011.
- ✦ Claudia Withers, Chief Operating Officer of the Equal Employment Opportunity Commission. She was appointed by the D.C. Bar in 2006, and her term ends in 2012.
- ✦ Noel J. Francisco, an attorney with the law firm Jones Day. He was appointed by the President of the United States in 2007, and his term ends in 2012.
- ✦ Shirley A. Higuchi, of the American Psychological Association. She was appointed by the D.C. Bar in 2008, and her term ends in 2014.
- ✦ William Lightfoot, an attorney with the law firm Koonz, McKenney, Johnson, DePaolis & Lightfoot. He was appointed by the Mayor in 2008, and his term ends in 2014.
- ✦ Michael Fauntroy, Ph.D., an associate professor at George Mason University. He was appointed by the Mayor in 2010, and his term ends in 2016.

The D.C. Commission on Judicial Disabilities and Tenure has four responsibilities prescribed in the D.C. Home Rule Act, the District of Columbia Retired Judge Service Act, and the District of Columbia Judicial Efficiency and Improvement Act. The Commission evaluates the performance and qualifications of D.C. judges seeking reappointment to second and successive terms; it has the authority to discipline judges for judicial misconduct and has the power to reprimand, censure, or remove a judge from office; it has the authority to involuntarily retire a judge for reasons of health; and the Commission conducts fitness reviews of retiring judges who wish to continue their judicial service as senior judges and recommends to the appropriate Chief Judge whether a judge should or should not be appointed or reappointed to senior status. This report covers only the first of those responsibilities.

The Commission has two staff members. From 1973 to 2009, the D.C. government funded the Commission. Beginning in fiscal year 2010, the federal government has provided the Commission's funding. The Executive Director is Cathaee J. Hudgins.

The Judicial Disabilities and Tenure Commission office is at:

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Part Two: Description of the Various Professional Pathways to the D.C. Superior Court

A. The D.C. Superior Court and Judicial Assignments

The D.C. Superior Court is a general-jurisdiction trial court. This means that it has responsibility for adjudicating cases that span the full range of legal topics. The Court is divided by subject matter into the Criminal Division, the Civil Division, the Family Court, the Probate and Tax Division, and the Domestic Violence Unit. Because Superior Court judges generally serve rotations in several of the divisions during their fifteen-year terms, an ideal judicial candidate would have experience in several areas of law. Because of its diverse jurisdiction, the Superior Court benefits from having judges from a variety of professional specialties among the 62-judge corps.

The Chief Judge has the authority to assign judges to serve in the Superior Court divisions for varying periods of time, and he or she adjusts the number of judges assigned to the various divisions periodically to accommodate fluctuations in caseload among the divisions. The only statutory constraints on the Chief Judge's discretion in making assignments are those imposed by the D.C. Family Court Act of 2001. As discussed in Part One of this report, the Family Court Act mandates that the Chief Judge may assign to the Family Court no more than fifteen judges and only those judges who meet four special qualifications.

The judicial assignment list shows that for 2011 the Chief Judge deployed the 55 associate judges as follows (there were six vacancies on the Court in 2011):

Table 1
2011 Judicial Assignments of D.C. Superior Court Associate Judges

Judges	Division
20 (36%)	to the Criminal Division
16 (29%)	to the Civil Division
13 (24%)	to the Family Court
2 (4%)	to the Probate and Tax Division
4 (7%)	to the Domestic Violence Unit

B. The Scope and Limitations of the Professional Pathways Data

This portion of the report is based on independent research by the Council for Court Excellence (CCE). To prepare this report, CCE's research focused on a seventeen-year period, 1994 to August 2011. Within that period, there were 48 vacancies among the 62 associate judge positions in the Court that were caused by retirement or resignation of a judge. Three additional temporary vacancies were created as a result of the Family Court Act of 2001, making a total of 51 vacancies within the focus period. CCE researched both the professional backgrounds of candidates and the time required for the full judicial nomination process.

With a total of 51 vacancies and a three-person panel recommended to the President for each, there were 153 total nominations during CCE's 17-year focus period. Because of missing data, CCE was able to analyze data on 150 of the 153 nominations.

This report examines data on the 45 judges who have been installed to fill the 51 vacancies announced between June 1994 and August 2011, the 6 persons who had been appointed by the President but not yet confirmed or installed as judges as of August 2011, and the other 66 known nominees.

C. Professional Experience Data for D.C. Superior Court Judges

To illuminate the various professional pathways followed by Superior Court judges and judicial nominees, this CCE report analyzes judicial candidates' professional legal experience and categorizes it by sector and subject matter.

There are three sector categories – government (both local and federal), private, and academic – and three subject matter categories – criminal (both prosecution and defense), civil, and family. The report gives each judicial candidate credit for all sector and subject matter experience mentioned in their available biographical information.

In addition, the report designates one sector and one subject matter as the primary professional experience for each candidate, based on the duration of that experience or, where the experiences seemed equal in duration, the most recent work.

Table 2 displays the primary legal background of all 45 judges installed in the D.C. Superior Court between June 1995 and August 2011. Of the 45 judges, 36 (80%) had primary experience working within the government sector, while the other 9 (20%) worked primarily in the private sector. Of the 45 judges, 26 (58%) had primary experience in criminal law, 10 (22%) in civil law, and 9 (20%) in family law.

Thus, over the past seventeen years, the primary professional pathway to the D.C. Superior Court has been working for the District of Columbia or federal government in criminal law prosecution or defense.

Over the past seventeen years, the primary professional pathway to the D.C. Superior Court has been working for the District of Columbia or federal government in criminal law prosecution or defense.

Table 2
Primary Experience for All D.C. Superior Court Judges Installed 1995-2011

	Sector		Subject Matter	
TOTAL JUDGES 45	Government	36 (80%)	Criminal	26 (58%)
	Private	9 (20%)	Civil	10 (22%)
	Academic	0 (0%)	Family	9 (20%)
	Total	45 (100%)		45 (100%)

Table 3 tallies all the professional legal experiences of the 45 D.C. Superior Court judges installed between June 1995 and August 2011. The prevailing sector of experience is even more decidedly government, with 43 (96%) of the 45 seated judges having had some experience in government employment.

However, many of the judges had followed a varied professional pathway. Twenty-seven (60%) had some experience in the private sector, and 18 (40%) in academia. Subject matter expertise was again most highly represented by criminal law, with 40 (89%) of the 45 seated judges having some criminal law background. However, also highly represented was civil law, where 33 (73%) had some experience. Only 13 (29%) of the 45 seated judges had some family law experience before joining the Court.

Although working for the government and in the field of criminal prosecution or defense remains the most common professional pathway to the D.C. Superior Court, many of the judges had followed a varied professional pathway.

Even when all their professional experiences are accounted for, working for the government and in the field of criminal prosecution or defense remains the most common professional pathway to the D.C. Superior Court over the past seventeen years.

Table 3
All Experience for All D.C. Superior Court Judges Installed 1995-2011

	Sector		Subject Matter	
TOTAL JUDGES 45	Government	43 (96%)	Criminal	40 (89%)
	Private	27 (60%)	Civil	33 (73%)
	Academic	18 (40%)	Family	13 (29%)

D. Professional Experience Data for Superior Court Nominees Not Appointed

CCE also analyzed the professional backgrounds of the 66 nominees recommended by the Judicial Nomination Commission who were not selected by the President to become D.C.

Superior Court judges. Because candidates may be nominated over time for more than one judicial vacancy, the 66 known nominees have been nominated a total of 100 times.

Table 4 displays the data on their backgrounds. Of the 66 total unselected nominees, there were 44 (66%) whose primary experience was in the government sector. Only 21 (32%) of the unselected nominations had their primary experience in the private sector, and one (2%) came from academia. As to their primary subject matter experience, 30 nominees (45.5%) had a criminal law background, 26 (39.5%) had a civil law background, and 10 (15%) had a family law background.

Table 4
Primary Experience for D.C. Superior Court Nominees Not Appointed 1995-2011

	Sector		Subject Matter	
TOTAL NOMINATIONS 100	Government	72 (72%)	Criminal	50 (50%)
	Private	26 (26%)	Civil	32 (32%)
	Academic	2 (2%)	Family	18 (18%)
	Total	100 (100%)		100 (100%)
NOMINEES 66	Government	44 (66%)	Criminal	30 (45.5%)
	Private	21 (32%)	Civil	26 (39.5%)
	Academic	1 (2%)	Family	10 (15%)
	Total	66 (100%)		66 (100%)

E. Age Data for D.C. Superior Court Judges and Nominees

Because it is one measure of the duration of their professional experience, CCE also compiled data on the age of D.C. Superior Court judges and judicial nominees. CCE used its best judgment in estimating the age at nomination for nominees after 2008, because the Judicial Nomination Commission no longer included age in its notices.

The average age at appointment for the 45 judges installed during the focus period was 45 years, with a range from 33 years to 66 years.

The average age at nomination for the 100 unselected nominations was 47 years, with a range from 32 years to 62 years.

F. The Duration of the District of Columbia Judicial Appointment Process

CCE tracked the duration of the entire D.C. Superior Court judicial appointment process, from public notice of a vacancy to public judicial investiture. Available data permitted computation of that entire duration for only 40 of the 51 judicial nominations.

For the 40 completed judicial appointments, the average time from the actual vacancy (which may be before or after the published Notice of Judicial Vacancy) until the public investiture of the new judge was 13.5 months, with the shortest taking 6 months and the longest taking 38 months.

CCE was able to determine that in 49 of the 51 judicial nominations, the Judicial Nomination Commission took an average of 1.6 months after the vacancy date to forward names. In nine cases, they were able to forward names prior to the date of the vacancy, presumably because the retiring judge had given the Commission ample advance notice of his or her retirement date. The longest time to forward the names, which occurred in four cases, was four months after the vacancy date.

CCE was also able to track the time from the Judicial Nomination Commission's recommendation to public investiture in 40 of the 45 completed judicial appointments. After the Commission has forwarded names to the President, the remaining steps of the process – Presidential appointment, Senate confirmation, and public investiture – have taken an average of 12 months for those 40 judicial appointments, with the shortest taking four months and the longest taking 36 months.

G. Conclusion About the Judicial Appointment Process for the D.C. Superior Court

Keeping judicial positions filled, or knowing how long a vacancy is likely to remain unfilled, are both important to permit the smooth operation of a court, but CCE's research confirms that both are beyond the control of the Superior Court or the Judicial Nomination Commission.

There have been 51 D.C. Superior Court judicial vacancies in the 17-year focus period, for an average of three per year. Thus, the D.C. Superior Court judicial appointment process results in frequent judicial vacancies that are of unpredictable duration, but are likely to exceed one full year.

Because of the frequency of vacancies and the length of the appointment process, it is rare for the Superior Court to have its full complement of 62 judges.

The D.C. Superior Court judicial appointment process results in frequent judicial vacancies that are of unpredictable duration, but are likely to exceed one full year.

Acknowledgments

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Special Thanks to

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